



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

Regulatory Branch

MAR 16 2015

Mr. Ryan Larson
City of Tukwila Public Works
Tukwila, Washington 98188

Reference: NWS-2011-199
Tukwila Public Works
(Duwamish Gardens)

Dear Mr. Larson:

We have reviewed your application to construct a shallow water restoration site. Limited dredging will occur below the existing ordinary high water mark (OHWM), excavating up to 388 cubic yards of material. Placement of 143 cubic yards of gravel and cobble will be placed below OHWM to accommodate the river access trail. Approximately 40 pieces of root wad and large woody debris will be installed at or below the new OHWM. Approximately 26,236 cubic yards of upland material will be excavated from the site in total. The work will occur in the Duwamish River at Tukwila, Washington. Based on the information you provided to us, Nationwide Permit (NWP) 27, *Aquatic Habitat Restoration, Establishment, and Enhancement Activities* (Federal Register February 21, 2012, Vol. 77, No. 34), authorizes your proposal as depicted on the enclosed drawings dated June 10, 2013, revised July 18, 2014

In order for this authorization to be valid, you must ensure the work is performed in accordance with the enclosed *NWP 27, Terms and Conditions* and the following special conditions:

a. You must implement and abide by the Endangered Species Act (ESA) requirements and/or agreements set forth in the *Restoration Programmatic for the State of Washington Specific Project Information Form*, dated June 11, 2013, and the addendum dated August 1, 2013, in their entirety. The National Marine Fisheries Service (NMFS) concurred with a finding of "may affect, not likely to adversely affect" based on this document on August 27, 2013 (NMFS Reference Number NWS-2013-10397). The U.S. Fish and Wildlife Service (USFWS) concurred with a finding of "may affect, not likely to adversely affect" based on this document on August 30, 2013 (USFWS Reference Number 01EWF00-2013-TA-0468). Both agencies will be informed of this permit issuance. Failure to comply with the commitments made in this document constitutes non-compliance with the ESA and your U.S. Army Corps of

Engineers permit. The USFWS/NMFS is the appropriate authority to determine compliance with ESA.

b. In order to meet the requirements of the Endangered Species Act you may conduct the authorized in water activities from August 1 through August 31 in any year this permit is valid. You shall not conduct in water work authorized by this permit from September 1 through July 31 in any year this permit is valid.

c. The Memorandum of Agreement (MOA), *entitled "Memorandum of Agreement Among the U.S. Army Corps of Engineers, the Washington State Historic Preservation Office and the City of Tukwila"*, and signed by these entities, shall be implemented in its entirety. If you fail to comply with the implementation and associated enforcement of MOA the U.S. Army Corps of Engineers may determine that you are out of compliance with the conditions of the Department of the Army permit or authorization and suspend the permit or authorization. Suspension may result in modification or revocation of the authorized work.

To satisfy the provisions of the 2008 Fish Passage and Restoration programmatic consultation in accordance with Special Condition "a" above, please be reminded that you must provide the following information upon completion of your project:

1. Project completion date.
2. Sediment monitoring report for projects requiring in-water work, including the extent and duration of downstream turbidity impacts measured every 20 minutes during construction. (For additional details, see question I.R. of the *Specific Project Information Form* you submitted).

We have reviewed your project pursuant to the requirements of the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act and the National Historic Preservation Act. We have determined this project complies with the requirements of these laws provided you comply with all of the permit general and special conditions.

The authorized work complies with the Washington State Department of Ecology's (Ecology) Water Quality Certification and the Coastal Zone Management Act requirements for this NWP. No further coordination with Ecology is required.

The Duwamish River is a water of the U.S. If you believe this is inaccurate, you may request a preliminary or approved jurisdictional determination (JD). If one is requested, please be aware that we may require the submittal of additional information to complete the JD and work authorized in this letter may not occur until the JD has been completed.

Our verification of this NWP authorization is valid until March 18, 2017, unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work has not been completed by that date and you have commenced or are under contract to commence this activity before March 18, 2017, you will have until March 18, 2018, to complete the activity under the enclosed terms and conditions of this NWP. Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. You must also obtain all local, State, and other Federal permits that apply to this project.

Upon completing the authorized work, you must fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit* form. Thank you for your cooperation during the permitting process. We are interested in your experience with our Regulatory Program and encourage you to complete a customer service survey form. This form and information about our program is available on our website at www.nws.usace.army.mil select "Regulatory Branch, Permit Information" and then "Contact Us." A copy of this letter without enclosures will be furnished to Mr. Jim Brennan, J.A. Brennan and Associates, 100 South King Street, Suite 200, Seattle, Washington 98104. If you have any questions, please contact me at lori.c.lull@usace.army.mil or (206) 316-3153.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lori C. Lull', with a stylized, cursive script.

Lori C. Lull, Project Manager
Regulatory Branch

Enclosures